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Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 5 September 2002 from the Permanent Mission of Mauritius to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of the Republic of Mauritius presents its compliments to the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) and, in accordance with paragraph 6 of Security Council resolution 1390 (2002), has the honour to transmit the report of the Government of Mauritius.

(*Signed*) B. **Gokool**
for Head of Mission

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Annex to the letter dated 5 September 2002 from the Permanent Mission of Mauritius to the United Nations addressed to the Chairman of the Committee

Report to the United Nations sanctions Committee on Afghanistan on the implementation of Security Council resolution 1390 (2002)*

Under paragraph 2 of Security Council resolution 1390 (2002), Member States were to take the following measures with respect to Osama bin Laden, members of the al-Qa'idah organization and the Taliban and other individuals, groups, undertakings and entities associated with them in the list established pursuant to resolutions 1267 (1999) and 1333 (2000) and which are updated regularly by the Security Council sanctions Committee on Afghanistan:

(a) Freeze without delay the funds and other financial assets or economic resources of these individuals, groups, undertakings and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory;

(b) Prevent the entry into or the transit through their territories of these individuals, provided that nothing in this paragraph shall oblige any State to deny entry into or require the departure from its territories of its own nationals and this paragraph shall not apply where entry or transit is necessary for the fulfilment of a judicial process or the Committee determines on a case-by-case basis only that entry or transit is justified;

(c) Prevent the direct of indirect supply, sale and transfer, to these individuals, groups, undertakings and entities from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related materiel of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and technical advice, assistance, or training related to military activities.

Legislative measures taken in 2002

The Government of Mauritius has taken legislative measures and enacted the following legislation:

(a) The Prevention of Terrorism Act 2002;

(b) The Financial Intelligence and Anti-Money Laundering Act 2002;

(c) The Prevention of Corruption Act 2002.

* The annexes referred to in the report are on file with the Secretariat, room S-3055, and are available for consultation.

Prevention of Terrorism Act 2002

The Prevention of Terrorism Act 2002, which came in force in Mauritius on 16 March 2002, clearly prohibits any form of suspected terrorist activity. The Act provides for the prohibition of acts of terrorism and of offences related to terrorist meetings, hostage taking, support of acts of terrorism, harbouring of terrorists and obstruction of investigations pertaining to terrorist property. These offences are visited by penalties, which duly reflect their seriousness.

The Act also allows the Commissioner of Police to apply to a Judge in Chambers to have any association of two or more persons engaging in the pursuit of acts of terrorism declared a proscribed organization. It will be an offence to belong to or to provide any form of assistance to a proscribed organization. Since it will be for a Judge to declare an entity to be a proscribed organization under section 4 of the Act, this provision ensures absolute fairness and impartiality in the decision-making process and eliminates possibility of abuse by the Executive.

The Act further makes provision for persons listed by the Security Council, the Council of the European Union or any approved State or organization to be declared suspected international terrorists and any listed organization to be declared international terrorist groups under section 10 of the Act. This declaration will be reviewable by the courts under administrative law principles. Regulations are being prepared to provide for the freezing of assets and funds of suspected international terrorists and international terrorist groups.

An entire part of the Act is devoted to terrorist cash and property, in view of the financial and monetary ramifications of modern-day terrorism. The Act also provides for seizure of suspected terrorist money and for its detention (upon an Order from a Judge in Chambers), for the attachment of property belonging to any suspected terrorist (on application to a Judge in Chambers) and also provides for property tracking with respect to a person suspected of having committed, of committing, or of being about to commit an act of terrorism or of being in possession of terrorist property.

Consequential amendments have also been brought to the Immigration Act for suspected international terrorists to be declared prohibited immigrants or to be deprived of Mauritian citizenship.

Copy of the Prevention of Terrorism Act is in annex I.

Financial Intelligence and Anti-Money Laundering Act 2002

While scrutinizing the Economic Crime and Anti-Money Laundering Act of June 2000, the Government found that the said legislation was insufficiently comprehensive to combat fraud and corruption and also to meet developments on both the local and international scenes. The Prevention of Corruption Bill and the Financial Intelligence and Anti-Money Laundering Bills were therefore presented to the National Assembly and received assent on 27 February 2002. With the proclamation and entry into force of the Prevention of Corruption Act 2002, the Economic Crime and Anti-Money Laundering Act 2000 was repealed.

The Financial Intelligence and Anti-Money Laundering Act provides for the establishment of a Financial Intelligence Unit and a Review Committee since

financial intelligence gathering is crucial in the fight against money-laundering and its linkage with the financing of terrorism.

Part II of the Act sets out the acts or activities which constitute money-laundering offences. Section 3, which creates the offence of money-laundering, covers property representing proceeds of crime; "crime" has the same meaning as in the Criminal Code. Section 3 also imposes on banks, financial institutions, cash dealers and professionals such as accountants, lawyers etc., obligations to take such measures as are reasonably necessary to prevent their services being used as a channel for money-laundering.

Sections 4 and 5 of the Financial Intelligence and Anti-Money Laundering Act 2002 re-enact the provisions relating to the offences of conspiracy to commit the offence of money-laundering and payment in cash in excess of a specified amount.

Section 9 of the Act provides for the establishment of the Financial Intelligence Unit (FIU), which will be essentially a central intelligence gathering Unit to compile information about money-laundering activities and other proceeds of crime and make it available to the investigative authorities. Previously, suspicious transaction reports were made to different bodies.

Furthermore, the Financial Intelligence Unit will benefit from "mutual assistance" once it becomes a member of the Egmont Group, which consists of financial intelligence units from over 50 countries and has as objective the improvement of support for its members' national anti-money-laundering programme and involves inter alia the expansion and systematization of financial intelligence information and training of investigative personnel.

The Director of the Financial Intelligence Unit took office on 9 August 2002 and he has established a close working relationship with FinCEN and assistance is being sought for training and development of FIU.

The Review Committee, whose Chairperson shall be a professional of long-standing legal or judicial experience assisted by two members of high repute, shall consider whether to disseminate information from FIU to investigatory or supervisory authorities. The Review Committee may:

(a) Consent to the dissemination of information by FIU to the investigatory or supervisory authorities with a view to determination of any criminal liability and the prosecution of, or action against, the persons accordingly;

(b) Refer the information back to FIU with a view to determining whether supporting information can be found which would justify a subsequent reference to one of the investigatory or supervisory authorities.

This Act further provides for the exchange of financial information between supervisory authorities and mutual assistance among countries in relation to money-laundering and suspicious transactions.

Copy of the Financial Intelligence and Anti-Money Laundering Act is in annex II.

Prevention of Corruption Act 2002

This Act introduces new corruption offences, punishable with severe penalties, to more effectively combat the scourge of corruption.

The Act further provides for the creation of a new institution known as the Independent Commission against Corruption in replacement of the Economic Crime Office, with power to:

(a) Detect and investigate corruption offences;

(b) Investigate money-laundering offences;

(c) Better educate the public on the evils of corruption.

The Independent Commission against Corruption is fully operative in Mauritius as from 1 June 2002 and has taken over all investigative functions of the former Economic Crime Office.

Moreover, the Prevention of Corruption Act 2002 provides for power of restraint and forfeiture of the proceeds of corruption and money-laundering and for obtention and provision of assistance from and to foreign States and for extradition.

Copy of the Prevention of Corruption Act 2002 is in annex III.

Administrative measures

Bank of Mauritius — the Central Bank

Measures adopted were designed to instil discipline in the banking, non-bank deposit taking institutions and the money changers and foreign exchange dealers sectors by encouraging institutions falling under the jurisdiction of the Central Bank to ensure that they are not abused by the names/entities and organizations listed by the Security Council sanctions Committee on Afghanistan.

The measures required those institutions to report to the Central Bank (Bank of Mauritius) any accounts or transactions which the individuals and entities mentioned in the United States Executive Order List, the list of the Security Council sanctions Committee on Afghanistan (new consolidated list) pursuant to resolutions 1267 (1999), 1269 (1999), 1333 (2000) and 1390 (2002), and the list of 27 December 2001 of the Council of the European Union, and to gather intelligence on those individuals and entities named in the above-mentioned lists, which would enable prompt action once the series of legislation mentioned above came into effect.

The attention of all banks, money changers, and foreign exchange dealers was drawn to the provisions of Security Council resolutions 1267 (1999), 1333 (2000) and 1390 (2002) and they were required to remain vigilant in order to ensure that their institutions are kept free from abuse by the names/entities and organizations listed by the Security Council Committee on Afghanistan.

Those institutions were also required to report to the Central Bank any information which they hold or come to hold pertaining to transactions connected with the names/entities and organizations listed by the Security Council Committee on Afghanistan.

All banks, money changers and foreign exchange dealers were provided with a list of names and entities appearing in the Security Council consolidated list established pursuant to resolutions 1267 (1999) and 1333 (2000) and were required to report forthwith to the Bank of Mauritius any account which the organizations/persons mentioned in the list hold with their institutions and to seek

the approval of the Bank of Mauritius before executing any request for any transactions in respect of those accounts.

Banks, money changers and foreign exchange dealers have reported that the organizations/persons mentioned in the Security Council list do not maintain any accounts with them.

A copy of the questionnaire submitted by the Government of Mauritius for the FATF Special Recommendations on Financing of Terrorism is in annex IV.

Financial Services Commission

Similarly the Financial Services Commission, which regulates activities of the offshore management companies, the stock exchange, foreign insurance companies, fund management companies and trusts and international companies under the Financial Services Development Act, has gone through its database and urged professional associations in the financial services industry to conduct appropriate checks on their files and records.

The Financial Services Commission has collated information, over and above the names listed by the Security Council Committee, published by international media, professional firms, web sites including the United Kingdom Financial Services Authority, the United States Office of Foreign Assets Control, the FBI and the Bank of England. The Commission's database has been thoroughly searched for any link with names and entities and organizations listed.

Each time updated lists of terrorists or terrorist organizations are forwarded to the Commission, the latter circulates same to all licence holders asking them to update their searches as a matter of ongoing compliance and to report the result of the searches to the Commission.

The institutions falling under the jurisdiction of the Central Bank and the Financial Services Commission have so far not reported any transaction with the suspected individuals and entities/organizations listed by the Security Council Committee on Afghanistan.

Police and immigration controls

All the names and entities in the consolidated list have been entered in the immigration computer system as a "stop list" and are regularly updated, and the provisions of paragraph 2 (b) of the Security Council resolution are being complied with and implemented.

Pursuant to Security Council resolution 1390 (2002) and subsequent directives issued by authorities in Mauritius, the contents of the resolution were communicated to responsible officers at the various branches of the Police Force to sensitize all personnel working under their responsibilities to be more vigilant and to adopt a more proactive approach towards surveillance.

At the airport, vigilance has been stepped up for maximum alertness and instructions were given to all personnel to report and carry out surveillance on any suspected persons seen at the airport.

Security at the Port Louis harbour has been beefed up. Afloat patrols are being conducted within the harbour and freeport areas on a 24-hour basis. All craft plying

the port area are stopped and checked. There have been increased foot patrols in the peninsular region of the port and it is being ensured that no vehicles are left unattended on the jetty and personnel are being checked for access passes. Additionally, craft of the National Coast Guard have been positioned at vantage jetties for increased deterrence.

Strict control by the Mauritian authorities is being maintained on all vessels calling at Mauritius. The vessels are invariably being boarded and passenger manifests, travel documents and cargo are scrutinized.

Allegations of al-Qa`idah investment in Mauritius

At no time did the Monitoring Group established pursuant to Security Council resolution 1363 (2001) hint in the course of exchanges that it had come to its knowledge that any purported investment by al-Qa`idah or any person related to it had been effected in Mauritius, and we have no reason to believe otherwise in view of the nil return submitted by financial institutions to the regulators in this regard.

The position taken by the Monitoring Group at paragraph 46 of its second report to the effect that Mauritius had allegedly been used as a channel for al-Qa`idah investments has taken us by surprise, to say the least, as we have gathered no information to this effect from surveys conducted by us. Mauritius, in view of the cooperation shown right from the beginning and all the efforts deployed by its regulators to identify terrorism-related activities, would have expected the Monitoring Group to share with the Mauritian authorities information, if it had any, to enable the authorities to investigate the matter and correct any misperception by the Monitoring Group in the matter. We consider the association made between Mauritius and investments of al-Qa`idah without appropriate consultations between the two parties prejudicial and unfair to Mauritius on the part of the Monitoring Group. We feel that the Monitoring Group should not have denied us fair treatment before naming Mauritius in the report.